

Message Text

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ACTION OPIC-06

INFO OCT-01 EA-07 ISO-00 EB-07 AID-05 TRSE-00 XMB-02
CIAE-00 INR-07 NSAE-00 L-03 IGA-02 /040 W
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R 130930Z DEC 76
FM AMEMBASSY JAKARTA
TO SECSTATE WASHDC 8216

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FOR R. GUPTA OPIC

E.O. 11652: NA
TAGS: EINV, OPIC, ID
SUBJECT: INDONESIAN FGA FOR OPIC PROJECTS

REF: STATE 246738 AND PREVIOUS

1. SUMMARY: STAGE IS NOW SET TO INFORM GOI BY LETTER FROM ECON COUNSELOR THAT FGA FOR OPIC COVERAGE OF CONSTRUCTION AND SERVICE PROJECTS IS NOT REQUIRED AND WILL NO LONGER BE SOUGHT. DESPITE PROMISE OF WORKING LEVEL SUPPORT FOR USG PROPOSAL, POSSIBILITY EXISTS THAT SENIOR GOI OFFICIALS MAY BALK. END SUMMARY.

2. EMBOFF HAD LENGTHY DISCUSSION DECEMBER 8 WITH SUMANTORO, HEAD OF BAPPENAS BUREAU OF BUSINESS DEVELOPMENT, CONCERNING PROBLEM OF FOREIGN GOVERNMENT APPROVAL (FGA) FOR CONSTRUCTION AND SERVICE CONTRACTS. SUMANTORO HAS BEEN ACQUAINTED WITH PROBLEM AT LEAST SINCE HIS NOVEMBER 1975 TALKS WITH HOAGLAND.

3. IT WAS APPARENT THAT DESPITE A CERTAIN SYMPATHY FOR OUR POSITION SUMANTORO WAS HAVING DIFFICULTY RIDING HIMSELF OF SUSPICIONS THAT THERE IS MORE TO OUR PROPOSAL THAN MEETS THE EYE. AT THE HEART OF HIS PROBLEM WAS THE QUESTION WHY, IN THE ABSENCE OF SOME LEGAL OR OTHER REQUIREMENT, OPIC HAD TROUBLED TO SEEK GOI APPROVAL OF ITS INSURANCE COVERAGE IN THE FIRST PLACE. FACT THAT WE WERE SEEKING TO ELIMINATE FGA

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ONLY ON CONSTRUCTION AND SERVICE PROJECTS, AND NOT

ON OTHERS, EVEN THOUGH IT ALSO IS NOT REQUIRED FOR THEM, FURTHER PUZZLED HIM. HE MENTIONED SEVERAL TIMES THAT CONSTRUCTION AND SERVICE AREAS WERE NON REPEAT NON-PRIORITY INVESTMENT TARGETS, AND WORRIED THAT SOMEHOW RESULT OF THIS ACTION WOULD BE AN EMPHASIS BY OPIC ON INVESTMENT PROJECTS WHICH INDONESIA WANTED DE-EMPHASIZED.

4. AFTER A GOOD DEAL OF GIVE AND TAKE SUMANTORO INDICATED UNDERSTANDING OF WHAT OPIC/EMBASSY IS TRYING TO ACCOMPLISH, ALTHOUGH POSSIBILITY THAT HE SIMPLY WISHED TO END TWO-HOUR DISCUSSION CANNOT BE DISMISSED. HE AGREED THAT WE SHOULD SEND LETTER QUOTED IN PARA 6 AND SAID HE WOULD PROVIDE BRIEFING PAPER SUPPORTIVE OF IT FOR HIS SUPERIORS.

5. AS DISCUSSED WITH OPIC OFFICER GUPTA, LETTER INFORMING GOI OF CHANGES IN PROCEDURE IS DESIGNED SO THAT A REPLY IS NOT REQUIRED AND ALSO IS SOMEWHAT VAGUE, IN-HOPES THAT FURTHER QUESTIONS WILL NOT BE RAISED. ADDITIONAL WORDING IN LAST PARAGRAPH REGARDING POTENTIAL BENEFITS TO INDONESIA IS THERE AT SPECIFIC REQUEST OF SUMANTORO. EMBASSY REQUESTS OPIC APPROVAL OF TEXT OF LETTER PARA 6, PARTICULARLY ASSURANCE FROM OPIC LAWYERS THAT ALL LEGAL POINTS ARE COVERED.

6 TEXT OF LETTER:

DR. SALEH AFFIF
DEPUTY FOR MATERIAL DEVELOPMENT AND INFRASTRUCTURE
AND MAJ. GENERAL SLAMET
DEPUTY FOR PROGRAM AND IMPLEMENTATION
BAPPENAS
JL. TAMAN SUROPATI 2
JAKARTA

DEAR DR. AFFIF AND GENERAL SLAMET:

THIS IS IN REFERENCE TO THE DECEMBER 8 CONVERSATION BETWEEN MR. SUMANTORO OF BAPPENAS AND MR. REDMOND OF MY STAFF.

IN REVIEWING THE BILATERAL INVESTMENT GUARANTEE AGREEMENT, DATED JANUARY 7, 1967, BETWEEN OUR TWO LIMITED OFFICIAL USE

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GOVERNMENTS, THE OVERSEAS PRIVATE INVESTMENT CORPORATION (OPIC) HAS DETERMINED THAT IN THE CASES OF CONSTRUCTION AND SERVICE CONTRACTS ENTERED BY UNITED STATES INVESTORS WITH INDONESIAN CITIZENS OR WITH AGENCIES OF THE GOVERNMENT OF INDONESIA, THE AWARD OR APPROVAL OF EACH CONTRACT BY AN AGENCY OF THE GOVERNMENT OF INDONESIA CONSTITUTES AN ACCEPTABLE APPROVAL OF THE PROJECT BY THE GOVERNMENT OF INDONESIA FOR OPIC PUR-

POSES.

ACCORDINGLY, IN CASES OF INVESTMENTS INVOLVING CONSTRUCTION OR SERVICE CONTRACTS WE SHALL TAKE THE GOVERNMENT OF INDONESIA'S AWARD OR APPROVAL OF THE CONTRACT AS CONFIRMATION OF OFFICIAL INDONESIAN APPROVAL OF THE PROJECT'S ELIGIBILITY FOR OPIC INSURANCE. IF YOU DESIRE, OPIC COULD NOTIFY BAPPENAS WHEN OPIC INSURANCE FOR SUCH CONTRACTS IS ISSUED.

I BELIEVE THIS PROCEDURE WILL SERVE THE INTERESTS OF YOUR GOVERNMENT IN PERMITTING UNITED STATES CONTRACTORS, WHO CAN THUS BE ASSURED OF OBTAINING POLITICAL RISK INSURANCE AND CAN DISCOUNT THEIR BIDS ACCORDINGLY, TO OFFER MORE FAVORABLE TERMS FOR SUPPLYING THEIR SERVICES TO THE GOVERNMENT OF INDONESIA. ALSO, THE GREATER CERTAINTY OF OPIC COVERAGE FOR SERVICE CONTRACTS SUCH AS ROYALTY AND LICENSING ARRANGEMENTS, MAY ALSO ENHANCE THE TRANSFER OF TECHNOLOGY TO INDONESIA. THIS NEW PROCEDURE WILL ALSO EXPEDITE THE PROCESSING OF OPIC INSURANCE. KINDLY INFORM ME IF YOUR OFFICE WOULD LIKE TO RECEIVE NOTICE WHEN OPIC INSURANCE IS ISSUED IN THESE CASES.

SINCERELY YOURS,
HENRY BARDACH
COUNSELOR FOR ECONOMIC AND
COMMERCIAL AFFAIRS

END TEXT

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Message Attributes

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Decapton Note:
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Margaret P. Grafeld
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